

Remarks

Examiner's reconsideration of the application is requested in view of the amendments above, attachments hereto, and comments which follow.

Taking the matters raised by the Examiner in turn, the objection to the drawings is noted, and attached hereto is an annotated set of the drawings, showing the changes made. Those changes have already been explained in the remarks section of the response filed November 7, 2006. Please refer to the remarks and items 1-3 on page 10 of the remarks that refer to the added referenced numerals and explain how that relates to the amendments also made in the specification. It is believed that all is in order.

Regarding the priority document, it appears that the Patent and Trademark Office has, in some manner, destroyed the priority document. Therefore, a new copy of the priority document has been obtained, and is being mailed to the Patent and Trademark Office. Unfortunately, the applicants cannot control what the Patent and Trademark Office does with the document, once received. So that there is no doubt, however, appended hereto is a photocopy of the first sheet of the priority document, showing the visible ribbon and seal.

The Examiner has rejected claims 4, 5, 8, 12, 14 and 18 under 35 U.S.C. §112 as being indefinite. First, regarding claims 4 and 8, appropriate changes have been made, and all is believed to be in order.

Regarding claim 18, the claim has been cancelled without prejudice, and any issues regarding it no longer remain.

Concerning claim 12 and the lack of antecedent basis, appropriate changes have been made to claim 12, and all is believed to be in order.

Finally, regarding claim 5, the Examiner has rejected to the use of the term “settable” in the claim, and that is not understood. “Settable” means nothing more than “being able to be set,” and has no other particular meaning in relation to the technological field of continuous passive motion (CPM).

Indeed the drive mechanism may provide different types of CPM to the patient, as set out at quite great length in the specification (see, for example, page 10 line 28 to page 13 line 2; page 13 line 31 to page 14 line 12; page 16 line 26 to page 17 line 9). Prior to providing the CPM to the patient by properly driving the control point or points, the type of CPM is set to perform a particular CPM. This is possible because of the drive mechanism being suitable to make such selection or setting. Based on the specification, it is submitted that the skilled person is perfectly able to understand the proper meaning of settable in the context of the present invention.

The term “settable” is widely used and its meaning is clear – as can be found by entering this word on any searching browser. Reconsideration is therefore urged. Reconsideration is therefore urged.

The Examiner then turns to the prior art, and has rejected the claims as either being anticipated by, or obvious over, Kelly U.S. Patent No. 5,529,573. Reconsideration is requested.

Some discussion is required for the Examiner’s argument that Kelly shows two control points “16” and “17” in Fig. 1A of Kelly.

As Kelly uses reference “17” to indicate “upper leg bar/pan assembly” and reference “16” to refer to lower leg pivot point/bladder clamp assembly”, the objects are submitted to obviously not be control points on the distal end of the limb.

Applicants disagree with the statement of the examiner that 16 and 17 refer to control points in Fig. 1A, as this would mean:

- the arrow 17 is to indicate a point on the hamstring of the patient where the hamstring contacts the pan 20, and
- reference 16 is to indicate a point along the thigh-bone of the patient, between the point where the buttock contacts base member 28 and control point 17.

Although the Applicants disagree with the assumption of the Examiner, even making the assumption that the Examiner is correct, it is clear that these contact points are located on the proximal end of the limb, in this particular case along the thigh-bone of the leg.

Hence the device of Kelly does not disclose a first and a second control point on the distal end of the limb, not in the drawings and not in the specification.

For at least this reason, Kelly does not anticipate present claim 1. By virtue of their dependency, claims 2 to 22 are not anticipated, as well.

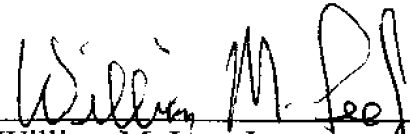
From Kelly, it is not clear how a skilled person would be guided to the features of the present claim 1. Nothing in Kelly teaches, points to or even suggests the provision of the features of present claim 1. It is not clear how the device of Kelly could be modified by the person of ordinary skill, taking the teaching of Kelly into account, for providing two control points on the distal end of the limb for controlling the CPM.

In view of the above, in view of the attachments hereto, and in view of the priority document that should be reaching the Examiner shortly, it is submitted that all is in order, the claims distinguish from the prior art, and the

application is in condition for allowance. The Examiner's further and favorable reconsideration is therefore urged.

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Respectfully submitted,



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